

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of September, 2007 at 8:00 P.M., and there were

PRESENT:           JOHN ABRAHAM, JR., MEMBER  
                          WILLIAM MARYNIEWSKI, MEMBER  
                          JAMES PERRY, MEMBER  
                          ARLIE SCHWAN, MEMBER  
                          ROBERT THILL, MEMBER  
                          JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            RICHARD QUINN, MEMBER

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                          JOHN DUDZIAK, DEPUTY TOWN ATTORNEY  
                          GEORGE PEASE, ASSISTANT BUILDING INSPECTOR

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF JOSEPH P. VALVO, JR:**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of of Joseph P. Valvo, Jr., 37 Partridge Walk, Lancaster, New York 14086 for two [2] variances for the purpose of allowing a storage shed to remain as currently positioned on premises owned by the petitioner at 37 Partridge Walk, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 17A.(3) of the Code of the Town of Lancaster. The storage shed is positioned 18.54 feet inside the front yard lot line along Partridge Walk.

Chapter 50, Zoning, Section 17A.(3) of the Code of the Town of Lancaster stipulates that no accessory structure shall project into a front yard. The petitioner, therefore, requests a 16.46 foot front yard lot line variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster. The storage shed is positioned 2.21 feet from the south side yard lot line.

Chapter 50, Zoning, Section 10D.(1)(b) of the Code of the Town of Lancaster requires a five foot south side yard lot line set back for an accessory structure. The petitioner, therefore, requests a 2.79 foot south side yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Joseph Valvo, Jr., petitioner 37 Partridge Walk Lancaster, New York 14086	Proponent
Michael Leonard 36 Partridge Walk Lancaster, New York 14086	Opponent
Jerry Dwigun 38 Partridge Walk Lancaster, New York 14086	Opponent

**IN THE MATTER OF THE PETITION OF JOSEPH P. VALVO, JR.**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. THILL  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Joseph P. Valvo, Jr. and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That an undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That a detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is substantial.

That the proposed area variance relief will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created and therefore precludes the granting of the area variance relief sought.

That the character of the neighborhood is such that there are no other properties with sheds in front yards.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That the petitioner failed to carry the burden of establishing that strict compliance with the Zoning Ordinance would cause practical difficulties rendering the property unusable.

That denial of the variance does not deprive the petitioner of the ability to place the shed in a location as permitted in the Code of the Town of Lancaster.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**CONSIDERED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED NO
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED NO
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED NO
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED NO

The variance was thereupon not granted.

September 13, 2007

**PETITION OF EDWARD J. PIERSA:**

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Edward J. Piersa, 624 Pleasantview Drive, Lancaster, New York 14086 for one [1] variance for the purpose of constructing a 960 square foot pole barn on premises owned by the petitioner at 624 Pleasantview Drive, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 960 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 210 square foot accessory use area variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Edward Piersa, petitioner  
624 Pleasantview Drive  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF EDWARD J. PIERSA**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. MARYNIEWSKI  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Edward J. Piersa and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought; the Board notes that there are numerous accessory structures in this neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought; the petitioner has demonstrated that the boat and recreational vehicle need to be near the driveway.

That the requested area variance relief is not substantial.

That while the proposed area variance relief has the potential to adversely effect the physical or environmental conditions in the neighborhood or district, the condition placed upon this variance grant will mitigate any impact.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That downspouts must be constructed upon this structure and are to be connected to the drainage pipe that flows to the rear of the property.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

September 13, 2007

**PETITION OF DANIEL & JULIE CURTIS:**

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Daniel & Julie Curtis, 732 Aurora Street, Lancaster, New York for renewal of their Temporary and Revocable Permit for the purpose of allowing the petitioners to conduct sales of wood crafts and gifts from the attached garage on premises owned by the petitioners at 732 Aurora Street, Lancaster, New York, to wit:

**WHEREAS**, Chapter 50, Zoning, Section 45D.(1)(a) of the Code of the Town of Lancaster authorizes the Zoning Board of Appeals to issue a Temporary and Revocable Permit for not more than two [2] years for uses and structures that do not conform with the regulations of this ordinance for the district in which it is located, provided that the use is of a temporary nature and does not involve the erection or enlargement of any permanent structure, and

**WHEREAS**, the petitioners have engaged in retail sales of wood crafts and gifts out of their home which is located in a Residential District One (R-1), and

**WHEREAS**, such retail sales are not a permitted use in a Residential District One (R-1), and

**WHEREAS**, on September 8, 2005 the Zoning Board of Appeals of the Town of Lancaster granted the petitioners a one [1] year Special Temporary and Revocable Permit for the conduct of retail sales of wood crafts and gifts out of their home, and

**WHEREAS**, on September 28, 2006 the Building Inspector of the Town of Lancaster renewed the Temporary and Revocable Permit for one [1] additional year in accordance with the authority granted to him by the Zoning Board of Appeals of the Town of Lancaster, and

**WHEREAS**, the current Temporary and Revocable Permit for the petitioners expired on September 8, 2007.

**NOW THEREFORE**, in accordance with Chapter 50, Zoning, Section 45D.(1)(a) of the Code of the Town of Lancaster, the petitioners request a two (2) year Temporary and Revocable Permit be issued to permit the continuation of the conduct of sales of wood crafts and gifts from their private residence at the above mentioned premises.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.



**PERSONS ADDRESSING THE BOARD**

Julie Curtis, petitioner 732 Aurora Street Lancaster, New York 14086	Proponent
Daniel Curtis, petitioner 732 Aurora Street Lancaster, New York 14086	Proponent
Todd Adamec 728 Aurora Street Lancaster, New York 14086	Proponent
Jim Hill 736 Aurora Street Lancaster, New York 14086	Proponent

**IN THE MATTER OF THE PETITION OF DANIEL & JULIE CURTIS**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Daniel & Julie Curtis and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood.

That no detriment to nearby properties will be created.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the Special Temporary Revocable Permit is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- two unlit signs are permitted; the signs must conform to the Code of the Town of Lancaster in their placement and cannot exceed two [2] square feet each in area per side and can have no more than two [2] sides for each sign
- only merchandise crafted on the premises may be sold on the premises
- only persons residing on the premises may craft the merchandise to be sold
- this Special Temporary Revocable Permit is valid for two years from this date
- the retail space is to be limited to the garage area as it currently exists
- the retail space shall be clearly incidental and subordinate to the use of the premises for residential purposes

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the Temporary and Revocable Permit was thereupon  
**ADOPTED.**

September 13, 2007

**PETITION OF JUSTIN LAMBERT:**

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Justin Lambert, 272 Hall Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a 960 square foot detached garage on premises owned by the petitioner at 272 Hall Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed garage is 960 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 210 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed garage is twenty one [21] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a five [5] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying the Town of Elma of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Justin Lambert, petitioner  
272 Hall Road  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF JUSTIN LAMBERT**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. ABRAHAM, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. MARYNIEWSKI  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Justin Lambert and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED.**

September 13, 2007

**PETITION OF JEFFREY WOPPERER:**

THE 5th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Jeffrey Wopperer, 194 Ransom Road, Lancaster, New York for one [1] variance for the purpose of constructing a twelve [12] foot by sixteen [16] foot storage shed on premises owned by the petitioner at 194 Ransom Road, Lancaster New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the storage shed would result in an eight [8] foot north side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot north side yard lot line set back. The petitioner, therefore, requests a seven [7] foot north side yard lot line set back variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Jeffrey Wopperer, petitioner  
194 Ransom Road  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF JEFFREY WOPPERER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. SCHWAN  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jeffrey Wopperer and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought, there are many other sheds in the neighborhood.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**



The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED.**

September 13, 2007

**PETITION OF THOMAS E. STILLER:**

THE 6th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Thomas Stiller, 266 Schwartz Road, Lancaster, New York for two [2] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 266 Schwartz Road, Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster. The proposed location of the pole barn would result in a five [5] foot side yard lot line set back.

Chapter 50, Zoning, Section 9D.(1)(b) of the Code of the Town of Lancaster requires a fifteen [15] foot side yard lot line set back. The petitioner, therefore, requests a ten [10] foot side yard lot line set back variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed pole barn is eighteen [18] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a two [2] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Thomas Stiller, petitioner  
266 Schwartz Road  
Lancaster, New York 14086

Proponent

**IN THE MATTER OF THE PETITION OF THOMAS E. STILLER**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. ABRAHAM  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Thomas E. Stiller and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within an Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought. Schwartz Road is rural with deep lots with diverse accessory structures.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought, this is the most advantageous location.

That the requested area variance relief is substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

**NOW, THEREFORE, BE IT  
RESOLVED** that based upon these findings, the relief sought be and is hereby  
**GRANTED.**

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED NO
MR. LEHRBACH	VOTED YES

The resolution granting the variances was thereupon **ADOPTED.**

September 13, 2007

**PETITION OF DATO DEVELOPMENT, LLC:**

THE 7th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of DATO Development, LLC, S5540 Southwestern Boulevard, Hamburg, New York 14075, Jeffrey Palumbo, Esq. and Brad J. Davidzik, Esq. as agents, 9276 Main Street, Clarence, New York 14031, for thirteen (13) variances for the purpose of constructing 39 townhouse units on property owned by the petitioner which is located at Forestream Village on Slate Bottom Drive, A/K/A Brookside Village Townhomes and identified on the tax map as Section Block Lot numbers 126.54-1-1 through 126.54-1-48 and 126.54-1-55.21 in the Town of Lancaster, New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 12A. of the Code of the Town of Lancaster. The property upon which this variance is sought is 4.16 acres in size. The petitioner's plans call for the construction of 39 dwelling units upon this property.

Chapter 50, Zoning, Section 12A. of the Code of the Town of Lancaster permits a maximum density of 8 units per gross acre where public sewers are available. The petitioner, therefore, requests a variance for the construction of 5.72 units in excess of the permitted 33.28 units.

- B. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(e) of the Code of the Town of Lancaster. The petitioner's plans call for 101,400 square feet land coverage which equates to 56% land coverage.

Chapter 50, Zoning, Section 12C.(1)(e) of the Code of the Town of Lancaster permits a maximum land coverage of 35%, which equates to 63,423 square feet. The petitioner, therefore, requests a land coverage variance of 37,977 square feet.

- C. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(g) of the Code of the Town of Lancaster. The petitioner's plans call for open space/land area of 79,809 square feet.

Chapter 50, Zoning, Section 12C.(1)(g) of the Code of the Town of Lancaster requires that the minimum gross land area to be devoted to attached units excluding the area of public streets on the perimeter of that area shall be equal to the number of dwelling units, 39, times 4,300 square feet, which equates to 167,700 square feet. The petitioner, therefore, requests an 87,891 square foot open space/land area variance.

- D. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 19.8 foot south rear yard set back for Cluster #22.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a 20.2 foot south rear yard set back variance for Cluster #22.

- E. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a side yard setback of 18.7 feet at the northwest corner and 19.9 feet at the southwest corner of Cluster #22.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot side yard set back. The petitioner, therefore, requests a side yard set back variance of 21.3 feet at the northwest corner and a side yard set back variance of 20.1 feet at the southwest corner of Cluster 22.

- F. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 19 foot rear yard set back at Cluster #23.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a 21 foot rear yard set back variance for Cluster #23.

- G. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for an 18.8 foot west side yard set back at Cluster #24.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot side yard set back. The petitioner, therefore, requests a 21.2 foot west side yard set back variance for Cluster #24.

- H. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a rear yard set back of 8.05 feet at the northwest corner and 9.43 feet at the northeast corner of Cluster #18.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a rear yard set back variance of 31.95 feet at the northwest corner and a rear yard set back variance of 30.57 feet at the northeast corner of Cluster #18.

- I. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a 32 foot rear yard set back at Cluster #19.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests an 8 foot rear yard set back variance for Cluster #19.

- J. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster. The petitioner's plans call for a south side yard set back of 25.4 feet at the southwest corner and 24.3 feet at the southeast corner of Cluster #21.

Chapter 50, Zoning, Section 12C.(1)(b)[2] of the Code of the Town of Lancaster requires a 40 foot rear yard set back. The petitioner, therefore, requests a side yard set back variance of 14.6 feet at the southwest corner and a side yard variance of 15.7 feet at the southeast corner of Cluster #21.

- K. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The petitioner's plans call for a wall length of 186.5 feet without the requisite offset at Cluster # 19.

Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster requires that any main or longitudinal wall of a sequence of units shall not exceed 132 feet in length without a ninety-degree offset of at least 10 feet. The petitioner, therefore, requests a variance of 54.5 feet.

- L. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The petitioner's plans call for an aggregate wall length of 186.5 feet at Cluster # 19.

Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster limits the aggregate length of any wall to 176 feet. The petitioner, therefore, requests a variance of 10.5 feet.

- M. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The petitioner's plans call for a wall length of 134 feet without the requisite offset at Cluster # 21.

Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster requires that any main or longitudinal wall of a sequence of units shall not exceed 132 feet in length without a ninety-degree offset of at least 10 feet. The petitioner, therefore, requests a variance of 2 feet.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

Copy of a letter notifying Carl Bishara, New York State Department of Transportation of the time and place of this public hearing.

Copy of a letter notifying Mary F. Holtz, Cheektowaga Town Clerk of the time and place of this public hearing.

Copy of a letter notifying Patricia A. King, Elma Town Clerk of the time and place of this public hearing.

## PERSONS ADDRESSING THE BOARD

Jeffrey Palumbo, Esq., Representing DATO Development LLC 9276 Main Street Clarence, New York 14031	Proponent
Brad Davidzik, Esq. Representing DATO Development LLC 9276 Main Street Clarence, New York 14031	Proponent
Dan Zaccarine 198 Enchanted Forest South Depew, New York 14043	Proponent
Arthur Giacalone, Esq., representing Mr. & Mrs. Zaccarine 140 Knox Road East Aurora, New York 14052	Proponent
Lenora Haisley 202 Enchanted Forest South Depew, New York 14043	Comments & Concerns
Alan Haisley 202 Enchanted Forest South Depew, New York 14043	Comments & Concerns
Linda Stang 1150 Borden Road Cheektowaga, New York 14227	Comments & Concerns



**IN THE MATTER OF THE PETITION OF DATO DEVELOPMENT, LLC**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Dato Development, LLC and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of September 2007, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Multi-family Residential District 3, (MFR-3) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**NOW, THEREFORE, BE IT**

**RESOLVED** that this public hearing be closed to further oral testimony, and

**BE IT FURTHER**

**RESOLVED** that the Zoning Board of Appeals of the Town of Lancaster will accept and consider all written testimony received in the Office of the Town Clerk within the next twenty days as well as written legal opinion from the legal staff of the Town of Lancaster received in the Office of the Town Clerk within twenty days.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. ABRAHAM	VOTED YES
MR. MARYNIEWSKI	VOTED YES
MR. PERRY	VOTED YES
MR. QUINN	WAS ABSENT
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The foregoing resolution was thereupon **ADOPTED**.

September 13, 2007

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 11:40 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: September 13, 2007

